



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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CONEX-114893-08

Dear _____ :

This is in response to your recent letter concerning the taxation of a portion of social security benefits. You are concerned that the income level that determines what portion of your social security benefits are subject to tax is not indexed for inflation.

The income tax treatment of social security benefits is governed by section 86 of the Internal Revenue Code (Code). Under section 86, as enacted by Congress, a portion of an individual's social security benefits is subject to taxation, depending on the income level of the person receiving the social security benefits. The income level above which social security benefits are to be taxed is contained in legislation that Congress passed. This level was not indexed for inflation. The taxes paid on social security benefits are credited to the social security trust fund. This measure keeps the social security trust fund solvent.

In order to increase the dollar levels above which a portion of social security benefits are taxed or to index those amounts for inflation, Congress must change the Code. Any such legislative change, however, would result in a diminution of the amount of tax revenues that are credited to the social security trust fund. It should be noted that social security benefits themselves are indexed for inflation even though the income level at which the benefits are taxed is not.

The change you recommend to section 86 is a change in the law. Because the Office of the Tax Legislative Counsel in Treasury makes the recommendations for tax law changes, we have forwarded a copy of your letter to that office.

I hope that you will find the background of this tax and what must be done to change the law helpful. If we can be of any further assistance, please contact me or of my staff at .

Sincerely,

Lynne Camillo
Branch Chief, Employment Tax Branch 2
(Exempt Organizations/Employment
Tax/Government Entities)
(Tax Exempt & Government Entities)